

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU

&

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WA.No. 2866 of 2007

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AGAINST THE JUDGEMENT IN WPC.32666/2007 DATED 02/11/2007

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APPELLANT: PETITIONER

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GEORGE,  
S/O. VARKEY, AGED 45 YEARS  
RESIDING AT VETTUKATTIL HOUSE,  
PANGODE KARA,  
IKKRANADU NORTH VILLAGE,  
KUNNATHUNADU TALUK,  
ERNAKULAM DISTRICT.

BY ADV. SRI.SABU FRANCIS  
SRI.C.T.APPACHEN

RESPONDENTS: RESPONDENTS

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1. THAMBI,  
S/O. JOSEPH,  
THENUMMAKKAL  
PUTHENPURAYIL HOUSE,  
PANGODE KARA,  
IKKARANADU NORTH VILLAGE.

2. THE STATE OF KERALA,  
REPRESENTED BY ITS SECRETARY,  
LAW DEPARTMENT,  
TRIVANDRUM.

BY GOVERNMENT PLEADER SHRI M.P. SREEKRISHNAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION  
ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**H.L. DATTU, C.J. & K. M. JOSEPH, J.**

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**W. A. NO. 2866 OF 2007**  
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**Dated this the 3rd December, 2007**

**JUDGMENT**

**K. M. JOSEPH, J.**

This Writ Appeal is filed by the petitioner against the Judgment of the learned Single Judge in W.P.(C). No.32666/07. The Writ Petition was filed by the appellant/defendant in OS No.126/03 of Sub Court, Muvattupuzha. The respondent/plaintiff had shown the valuation of the Suit at Rs.1,05,000/=. The Suit was one for injunction. It was decreed in favour of the respondent herein. The appellant/defendant wants to file an Appeal. It is stated that since the respondent/plaintiff had valued the suit at Rs.1,05,000/=: the appellant has to pay a Court Fee of Rs.8,900/= for filing Appeal, and it is contended that the Suit ought to have been valued at Rs.500/= in which case the court fee payable was Rs.20/=. The appellant/petitioner sought for a direction that the District Court, Ernakulam shall consider the Judgment and Decree in the said Suit as a Judgment and Decree of Munsiff Court, for the purpose of valuation and court fee in Appeal.

2. The learned Single Judge dismissed the Writ Petition by holding that the valuation shown in the Suit is totally sustainable and under Section 27(c) of the Kerala Court Fees & Suits Valuation Act, the Court cannot review the matter for the defendant to file an appeal or the Decree cannot be deemed to be a Decree of the Munsiff Court for the purpose of court fee and jurisdiction. Aggrieved by the Judgment of the learned Single Judge, the respondent/defendant is before us in this Appeal.

3. The contention taken by the appellant/defendant is that the appellant is put to great difficulty because of the valuation shown by the respondent/plaintiff. It is his case that the respondent/plaintiff valued the simple injunction Suit at

Rs.1,05,000/= so as to evade the Caveat filed by the appellant/defendant before the Munsiff Court and to attract the pecuniary jurisdiction of the Sub Court. It is also stated that the learned Single Judge ought to have seen that the right of the plaintiff in regard to valuation should not be a burden to challenge the Judgment and Decree.

4. We find absolutely no merit in the contentions of the appellant. It is for the plaintiff to value the Suit. It is not open to the defendant to seek a mandamus to consider the Judgment and Decree passed in a Suit filed before the Sub Court, as the Judgment and Decree of the Munsiff Court, for valuation. It will amount to re-writing the Kerala Court Fees and Suits Valuation Act. We do not find any reason to interfere with the Judgment of the learned Single Judge. Accordingly, the Writ Appeal fails and it is dismissed.

**H.L. DATTU,  
CHIEF JUSTICE**

**K.M. JOSEPH,  
JUDGE**

**kbk.**